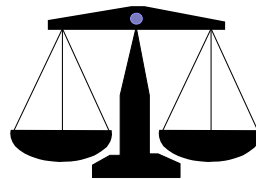


CITY OF CINCINNATI



Fifth Status Report to the Independent Monitor

August 12, 2003



Cincinnati Police Department

Thomas H. Streicher, Jr., Police Chief

S. Gregory Baker, Executive Manager of Police Relations
Police Relations Section

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I. INTRODUCTION

In April 2001, the Mayor of Cincinnati, and other interested persons within the City, requested the United States Department of Justice (DOJ) to conduct a review of the Cincinnati Police Department's (CPD) policies and procedures, specifically those that related to the use of force. This request indicated the City's commitment to minimizing the risk of excessive use of force in the CPD and to promoting police integrity. In response to these requests, the DOJ launched an investigation pursuant to authority granted under 42 U.S.C. 14141, the Violent Crime Control and Law Enforcement Act of 1994.

The DOJ's investigation, conducted with the full cooperation of the City, included extensive interviews with City and CPD officials, CPD officers, leaders of the Fraternal Order of Police (FOP) and the African-American police officers' association (Sentinels), community members and civil rights organization representatives.

At the close of the investigation, which lasted approximately one year, the DOJ determined that the jurisdictional requirements of 42 U.S.C. 14141 were sufficiently satisfied to permit the parties to enter into this **Memorandum of Agreement (MOA)**. As a result of the City's and the CPD's high level of voluntary cooperation and willingness to implement meaningful change, the DOJ believed this MOA, rather than contested litigation, represented the best opportunity to address the DOJ's concerns. On April 11, 2002, history was made in the City of Cincinnati. The City of Cincinnati and the United States Department of Justice entered into this landmark agreement.¹

At the same time, representatives for the City, the Cincinnati Black United Front (CBUF), the American Civil Liberties Union of Ohio (ACLU), and the Fraternal Order of Police (FOP) executed the **Collaborative Agreement (CA)**. Brought about in part by a series of legal actions citing patterns of discrimination by police, this latter agreement also served as an alternative to court litigation. Under this agreement the Federal District Court introduced a process where various stakeholders in the community could examine the broader social conflicts in the city by gathering the views of as many citizens as possible on improving the relationship between police officers and the community. Through the distribution of questionnaires and a series of public meetings involving different segments of the community, the following goals became the cornerstones of the Collaborative Agreement:

1. Police officers and community members will become proactive partners in community problem solving.

¹ Neither the City's entry into this Agreement, nor its decision to implement changes in CPD policies and procedures is an admission by the City, the CPD, or any officer or employee of either, that any of them have engaged in any unconstitutional, illegal, or otherwise improper activities or conduct.

2. Police officers and community members will build relationships of respect, cooperation, and trust within and between the police and the citizens.
3. Police officers and community members will work to improve education, oversight, monitoring, hiring practices, and accountability of the Cincinnati Police Department.
4. Police officers and community members will ensure fair, equitable, and courteous treatment for all by members of the police department.
5. Police officers and community members will create methods to establish the public's understanding of police policies and procedures and to recognize exceptional service provided by members of the police department.

Implementation of both agreements will not only reform police practice, but will enhance trust, communication, and cooperation between the police and the community. The settlements have fostered a union that has motivated all segments of the community to come together and focus on building the positive and productive relations necessary to maintain a vibrant city core and surrounding metropolitan area. The City of Cincinnati is enthusiastic and committed to this endeavor and has already begun initiatives to involve virtually all City departments in the process.

The two agreements will be overseen by an Independent Monitor. Consistent with the consensus decision-making process incorporated in the collaborative process, all collaborative partners unanimously selected the independent monitor.

The Monitor issued the Independent Monitor's Second Report ("Monitor's Second Report") on July 1, 2003. The Report noted some areas in which the CPD had fully complied with the MOA, and noted other areas in which improvements were still required.

This Report is intended to advise the Monitor as to the substantial progress that the CPD has made since the Monitor's Second Report was issued.

II. GENERAL POLICIES

A. MENTAL HEALTH RESPONSE TEAM

The MOA's requirements with regard to the MHRT are located at paragraph 10.

Monitor's Previous Assessment

In the Independent Monitor's Second Quarterly Report ("Monitor's Second Report"), the Monitor noted: "We continue to be impressed with the City's commitment to this program, and positive comments about the program from persons outside the Department reinforce this view."

The Monitor has indicated a desire to further evaluate the following areas:

- MHRT Training;
- MHRT officer operation in the field;
- MHRT officer dispatch to calls involving mentally ill individuals.

Status Update

- *Training*

The Training Section is currently working with the Mental Health Association to design the MHRT In-Service Training for 2003. It is anticipated the training will be held later this year. When the dates are confirmed, the Training Section will forward the information to the Monitor for review opportunities.

- *MHRT Availability*

On May 1, 2003, CPD began to track the number of MHRT officers deployed on a daily basis. The tracking process allows CPD to take a look at MHRT staffing levels by shift, district, and department-wide. According to the May and June staffing reports, CPD was able to provide consistent MHRT service.

- *MHRT Officer Dispatch Summary*

Effective May 1, 2003, Police Communications Section began to record the dispatch disposition of MHRT officers to all calls involving suspected mentally ill individuals. When dispatching these calls, the dispatcher will make an entry into a designated field for MHRT and all MHRT calls, indicating one of the following dispositions:

MHD – A MHRT unit was dispatched to the call

MHNA – A MHRT unit was not dispatched because all MHRT units citywide were busy.

MHNW – There were no MHRT units working in the city.

During this reporting period, CPD responded to 1454 such calls for service. In 925 of those instances, MHRT officers were dispatched to handle the situation. In the months of May and June there were only 23 instances where an MHRT officer was not available for dispatch. An monthly analysis of these calls are included in Appendix Item 2.

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B. FOOT PURSUIT

The provisions of the MOA related to foot pursuit are located in paragraph 11.

Monitor's Previous Assessment

The Monitor's Second Report noted that "The CPD foot pursuit policy complies with the MOA provision." The report also requests CPD supervisors to document the evaluation of foot pursuits when reviewing those incidents involving foot pursuits. Further, the Monitor expressed plans to continue assessment of training and implementation of the policy.

Status Update

- *Supervisor Evaluation of Foot Pursuits*

CPD is currently contemplating revision to the foot pursuit policy, Procedure 12.536. If approved, the revision will direct supervisors to continue to evaluate foot pursuits when investigating incidents and to also document this evaluation when completing the various incident reports.

- *Implementation and Training of New Policy*

The first level of training on the new policy was done in conjunction with the release of the policy in the Department Staff Notes. Specific scenarios involving foot pursuits were presented as part of the Roll Call Training Program.

The foot pursuit policy was also presented to the current class of recruits on May 12, 2003 as part on the Tactical Patrol Guide Review.

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III. USE OF FORCE POLICY

A. GENERAL USE OF FORCE POLICIES

The MOA's requirements pertaining to use of force are located in paragraphs 12 and 13.

Monitor's Previous Assessment

The Monitor's Second Report indicates that the Use of Force policy agreed upon by the City and DOJ on May 15, 2003 complies with the requirements of the MOA. Although the policy went into effect on June 1, 2003, some of the policy changes agreed upon were not contained in this version. As a result, CPD drafted a new policy on June 10, 2003 incorporating all of the changes. The June 10 policy has not been disseminated through the Department Staff Notes or posted on the CPD website.

Status Update

The policy agreed upon by the City and DOJ was published in the Department Staff Notes and became effective on July 29, 2003.

B. CHEMICAL SPRAY

MOA provisions pertaining to chemical spray are found at paragraphs 14, 15 and 16.

Monitor's Previous Assessment

The Monitor's Second Report evaluated the revised version of CPD's Use of Force policy and concludes the revised procedure complies with the MOA policy requirements regarding the use of chemical spray. The Monitor will continue to review training on the use of chemical spray. The Monitor has requested CPD to provide additional information relating to the following areas:

- Chemical Spray on Restrained Individuals – Restraint Equipment
- Chemical Spray on Persons Swallowing Drugs
- Research on Chemical Spray

Status Update

- *Chemical Spray on Restrained Individuals – Restraint Equipment*

As noted in previous conversations with the Monitor, restraining an extremely combative individual through lap belts and/or the restraining bar referred to in the Monitor's assessment is a tactical decision left to the judgment of the individual officer. The primary purpose of the restraining bar is to hold a compliant person in place as opposed to restraining a combative individual. As pointed out in discussions with the Monitor, the extreme risk posed to officers attempting to secure combative individuals in these devices far outweighs the degree of possible injuries to the arrested individuals.

When the safety equipment can be safely utilized, CPD currently uses the Lulaguna Prisoner Leg Restraint System, which consists of a spring loaded padded bar that is positioned on top of the legs which holds the prisoner in place with a seat belt attached from the bar to a buckle mounted on the floorboard. The Pro-Gard molded seat and floor pan work in conjunction with the leg restraint system. These are designed to prevent liquids from seeping under the seat and prisoners from hiding contraband. A Pro-Gard partition between the front and rear seat is in use on all the marked beat cars. This system allows for transportation of up to two prisoners in a single police vehicle.

The latest addition to the prisoner restraint components is the Pro-Gard window bars. This system allows the prisoner to be placed in the confines of the rear seat with both windows open for fresh air ventilation and protects against prisoners damaging the glass window and surrounding window frame. Installation of these window bars began with the 2003 Ford Crown Victoria order.

The Fleet Management Unit contacted CPD's equipment vendor, Camp Safety Equipment, to ascertain what new prisoner restraint equipment is on the market and available. Camp Safety advised only one other piece of equipment is currently available for the Crown Victoria police vehicle. There is a single prisoner transport system available, a Pro-Gard P1500 Pro-Cell Max. The Pro-Cell uses the same Pro-Gard components we now use with the addition of a plastic divider that is limited to transportation of a single prisoner only. The system can be purchased with a divider that spans the width of the vehicle; however this additional piece severely limits the range of the movement/adjustment for the driver's seat. Due to these limitations, it is recommended that CPD continue to purchase the Lulaguna Prisoner Restraint System. This system provides for appropriate prisoner security and ventilation when chemical irritant is utilized. CPD will continue to evaluate new prisoner restraint products as they become available.

- *Chemical Spray on Persons Swallowing Drugs*

The Monitor's first report suggested the use of chemical irritant on those individuals ingesting narcotics might not be consistent with best practices in the police profession. CPD is conducting more research and anticipates further discussions with the Monitor on this issue.

- *Research on Chemical Spray*

As directed by the Monitor and required by paragraph 19 of the MOA, CPD has conducted additional research regarding chemical irritant. On January 28, 2002, the Inspections Section released an extensive report on the effects of Chlorobenzylidene Malononitrile (CS) and Oleoresin Capsicum (OC). The report concluded CPD should continue its current issue of chemical irritant (CS) for the following reasons:

- The current CPD chemical irritant (CS) has proven to be very effective.
- The need for additional research to address short term and long term health risks associated with OC spray, particularly for subjects with pre-existing health problems and on-going exposure by police officers.
- Significant unresolved issues exist related to the use of Pepper Spray and In-Custody Deaths.
- Civil Liability because of the potential health risks with OC spray.

Since the issuance of this report, CPD has had the opportunity to review additional lines of irritant and reports, including those studies submitted by the Monitor. Inspections Section has not discovered any additional information to contradict the findings of the January 2002 report. Accordingly, Inspections Section on June 19, 2003 released a report re-affirming the conclusions of the January 2002 study.

C. CANINES

The MOA provisions relating to canine policy are located in paragraph 20.

Monitor's Previous Assessment

The Monitor's Second Report indicates the Canine Policy complies with the MOA. The Monitor made the following observations regarding implementation of the new policy:

- In three of the four canine bite incidents reviewed by the Monitor, the authorizing supervisor was also involved in the investigation.
- In two of the four canine bite incidents reviewed by the Monitor, there was no warning or canine announcement made either before or during the search. In one instance, the handler cited the belief that the suspect was armed as the reason for not using a canine announcement.
- The dog is allowed to proceed too far in front of the handler, which will hinder the handler in preventing a bite.
- Investigating supervisors need to capture information pertaining to the lack of verbal announcements, whether alternative means for apprehension were available, how much time elapsed between any announcement and a bite, or

about the handler's control of the dog, including recall after the bite. Supplemental photographs, diagrams, or witnessing canvassing efforts were deemed to be helpful in these investigations.

Status Update

- The revised canine policy agreed upon between the City and the DOJ became effective on April 29, 2003. CPD believes the policy clarifies the roles of the authorizing and investigating supervisors. The Special Services Section and Inspections Section will ensure this distinction during the review processes. The MOA has set a protocol that requires the Canine Unit supervisor to be the first option in seeking authorization for deployment. As expressed in previous conversations with the Monitoring Team, CPD believes this to be impractical because the Canine Unit supervisor, being the most proficient in the area of canine operations, will often be excluded from investigating the incident.
- The revised canine policy, Procedure 12.140 Subsection A.4.a., directs the canine handler to give the required verbal warning prior to initiating a track of suspects:
A.4.a. Whenever a canine team is deployed for the purpose of performing a track, a loud and clear announcement will be made that a canine will be deployed and advising the suspect to surrender and remain still if approached by a canine, unless the supervisor authorizing the deployment reasonably believes that the suspect is armed and/or the verbal warning will cause unnecessary danger to the officer(s) or others.
- Canine handlers have been issued thirty-foot leads (leashes) for tracking. The leads are purchased from CPD's canine equipment vendor, Ray Allen's Professional K-9 Equipment Company. The thirty-foot lead offers an appropriate buffer space for the initial contact between the canine handler and the offender. The lead can and is at times drawn in to shorten the "buffer zone" when officer safety allows.

While conducting a track, it is necessary for the canine handler to follow, watch, and read the signals displayed by the dog. As a result, reaction time to adversaries may suffer as opposed to an officer searching for suspects without a dog. The use of the canine, however, not only greatly increases the likelihood of capture; it also reduces the need for dangerous and often sudden close encounter contact between the officer and the suspect.

In the canine track search, the lead offers a distance that allows the handler to assess the offender's intentions, capabilities, and exact position. Allowing the canine to find and keep the offenders attention directed toward the dog gives the handler the time to develop a tactically safer approach. By using this approach, CPD has avoided serious injury to both canine handlers and suspects.

- The new canine bite report elicits much of the additional information sought by the Monitor. The new reports were released for use in conjunction with the revised canine policy on April 29, 2003.

D. BEANBAG SHOTGUNS / 40mm FOAM ROUNDS

The MOA provisions relating to beanbag shotguns and 40mm foam rounds are located in paragraphs 21, 22 and 23.

Monitor's Previous Assessment

The Use of Force policy now complies with the MOA provisions regarding beanbag shotguns. The Monitor has indicated a desire to further evaluate the following areas:

- Training provided to supervisors, officers, and recruits regarding the new policy
- Incidents in which beanbags were used.

Status Update

As with the foot pursuit policy, the revised use of force policy was first reviewed when published in the Department Staff Notes. Ongoing training continues through the Roll Call Training Program.

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IV. INCIDENT DOCUMENTATION, INVESTIGATION & REVIEW

A. DOCUMENTATION

The MOA provisions relating to documentation are located in paragraph 24.

Monitor's Previous Assessment

The Monitor's Second Report concluded the force reporting policy agreed upon by the City and DOJ is in compliance. The Monitor will continue to review CPD's training on the new requirements. With regard to the reporting documentation, the Monitor noted the following:

- The revised policy is not clear regarding audiotaped statements for taser investigations.
- The database currently used by CPD to record force incident information is not currently available to all CPD supervisors.

Status Update

- *Audiotaped Statements in Connection with Taser Investigations*

Until recently CPD had only deployed tasers to supervisors and specially trained officers. Tasetron Inc. manufactured this particular version of the taser. Taser International has since bought Tasetron. As a result product support, service, and liability has been discontinued for this model. Accordingly, CPD has removed these tasers from service and is currently looking at other replacement products.

- *Supervisory Access to Use of Force Information*

Although the force database is not available to supervisors on a network, the information is easily provided to supervisors upon request. Supervisors are able to access the information by telephone request during normal business hours or by email during other times.

B. INVESTIGATION

The MOA provisions relating to investigation are located in paragraphs 26, 27, 28, 29, 30 and 31.

Monitor's Previous Assessment

The Monitor's Second Report indicates Procedures 12.545 and 12.600 are in compliance with the MOA provisions relating to investigation of use of force incidents. With regard to force investigations, the Monitor noted the following:

- In some cases, the supervisor involved or authorizing the force has also been involved in investigating the incident.
- Often, witnesses to the events leading to the use of force have not been interviewed.
- In some of the cases, additional documentation would be helpful, i.e. photographs of officer injuries, photographs or diagrams of the scene, and medical records.

Status Update

- As in the case of the canine policy, the roles of the authorizing and investigating supervisors are clarified in the revised Use of Force policy. The District/Section/Unit Commanders and Inspections Section will continue to ensure this separation continues.
- When investigating incidents involving force, supervisors are required to make a judgment regarding the initial encounter with the subject of the force. To conduct this evaluation, witnesses to the events prior to the use of force would be helpful and certainly subject to interview if located or cooperative. Again, review at the command and Inspections Section levels will focus on this issue.
- Photographs of officer injuries are required in connection with incident investigations. They are kept on file with the Supervisor's Investigation of Officer Injury Report (Form 91S) at the Police Personnel Section. When necessary to clarify the events associated with force incidents, CPD has directed investigating supervisors to provide photographs/diagrams of relevant locations, witnesses, and evidence.

C. REVIEW OF CRITICAL FIREARMS DISCHARGES

The relevant provisions of the MOA are located at paragraphs 32, 33 and 34.

Monitor's Previous Assessment

In the Monitor's Second Report, the Monitor noted that the CPD is in compliance with the requirements of the MOA, and indicated a desire to review investigations conducted by the board.

Status Update

The Firearms Discharge Board has completed its investigation into the police intervention shooting that occurred on February 9, 2003. The investigative summaries prepared by the Firearms Discharge Board, IIS, and CIS have been forwarded to the Monitor for review.

Firearms Discharge Board hearings for two incidents involving accidental discharges of weapons occurred on July 23, 2003 and July 24, 2003. The Acting Inspections Section Commander will provide those findings to the Monitor for review upon completion of the investigation.

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V. CITIZEN COMPLAINT PROCESS

A. OPENNESS OF THE COMPLAINT PROCESS

Paragraphs 35 and 36 of the MOA deal with the openness of the complaint process.

Monitor's Previous Assessment

The Monitor's Second Report found CPD in compliance with the MOA. The Monitor's review of complaint investigations indicated CPD is implementing these provisions, with only the following exceptions:

- In one instance, the complainant alleges he or she was discouraged from making a telephone complaint by a rude calltaker. On the second attempt, the complaint was apparently properly investigated. The officer involved was disciplined for the use of rude language relative to the first complaint attempt.
- In another case, a complainant was given a feedback form instead of a complaint form. The officer involved was counseled.
- If the subject of force does not affirmatively make a complaint or allegation of force, the investigating supervisors are not completing complaint reports.

Status Update

- *Complaint Intake*

In the first instance cited above, the Monitor recognized that CPD not only ultimately took care of the proper recording and investigation of the complaint but also dealt with the inappropriate behavior of the first receiving officer.

Although in the second case, the officer gave the complainant the wrong form, the feedback form referred to can be used by citizens to record and forward information regarding both negative and positive officer performance. In the case of negative feedback, the matter will be handled according to the existing citizen complaint procedure. In any event, the officer was counseled on correct procedure.

- *Use of Force Complaints*

While investigating force incidents, CPD is routinely required to interview the subject of the force. Given the various states of mind and behaviors exhibited by those taken in custody by police, the responses given to investigating supervisors by these individuals significantly vary. Often the subjects will give interviews reflecting displeasure about their recent encounter with officers or in some cases the individual will simply refuse to answer any question posed by investigating

supervisors. Accordingly, one could easily reason that any positive comments offered by arrested individuals regarding their interaction with police in addition to being subjected to police force would be at the best minimal. In many of these instances, there may be no actual complaint relative to police activity. In the event the subject alleges excessive force or some type of improper police action, supervisors are directed to make the complaint report in accordance with Procedure 15.100, Citizen Complaints. The Inspections Section review will continue to serve as the process used to monitor these investigations to ensure this distinction is properly made.

B. MEANS OF FILING AND TRACKING COMPLAINTS

Paragraphs 37 and 38 of the MOA deal with the tracking and filing of complaints.

Monitor's Previous Assessment

The Monitor's Second Report did comment on the CPD's compliance with the MOA in this regard.

Status Update

To facilitate the sharing of complaint information, IIS and CCA have finished modifications to the IIS Microsoft Access database. Plans are being finalized to install the database to provide CCA access.

Once received, CPD enters the complaint information into the database maintained by the IIS. The unique tracking numbers described in MOA paragraph 37 are assigned during this process.

C. INVESTIGATION OF COMPLAINTS

Paragraphs 39, 40, 41, 42, 43, 44 and 45 of the MOA deal with the investigation of complaints.

Monitor's Previous Assessment

The Monitor found CPD to be in partial compliance with these MOA requirements, citing CPD's citizen complaint procedures and draft IIS SOPs incorporate most of the requirements of the MOA. If CPD revises Procedure 15.100 as proposed, and finalizes the draft IIS SOPS, its policies would comply with the MOA requirements.

In the Monitor's First Report the following concerns were raised:

- How complaints are allocated between IIS and Field Patrol Supervisors

- Neither the complaint procedure nor IIS SOPs describe standards to be used for the investigation as laid out in the MOA. Additionally, the policy does not address how the complainant will be periodically kept informed regarding the status of the investigation.

In the Second Report, the Monitor found that CPD properly allocated complaints between IIS and the CCRP process and the investigations were generally completed within 90 days. In this report, the following issues were raised in regard to complaint investigations:

- IIS investigators not examining “all relevant evidence” or making credibility assessments to resolve inconsistencies between witness and officer accounts.
- Complaints investigated in conjunction with uses of force are being adjudicated through the chain of command before being sent to IIS. No additional investigation is being conducted by IIS as directed by paragraph 46 of the MOA. Additionally, CCA is not being notified of the complaint in a timely manner.

Status Update

- *Complaint Assignment*

The various districts, sections and units within CPD are often the intake points for citizen complaints. For this reason, the receiving unit commander must make a decision on how to route the complaint for proper assignment and investigation. CPD maintains this is not an arbitrary process but rather this decision is specifically guided by existing procedure:

Procedure 15.100

Allegations of the following nature will be handled through the Citizen Complaint Resolution Process (CCDP):

- *Discourtesy/unprofessional attitude*
- *Lack of proper service*
- *Improper procedure (Examples include offense investigation, use of discretion, official law enforcement practices, and Police Department procedures)*

Allegations of the following nature will not be handled through CCRP and will be handled by the Internal Investigations and/or the judicial system.

- *Criminal conduct*
- *Sexual misconduct*
- *Serious misconduct (e.g. severe nature or pattern of procedural violations, lack of service, etc.)*
- *Excessive use of force (Force as defined in Procedure 12.545, Use of Force)*
- *Unnecessary pointing of firearms at persons*

- *Improper searches and seizures*
- *Discrimination*

To ensure proper complaint assignment has been achieved, the revised policy also requires copies of all complaints to be forwarded for IIS review. In those cases where a question exists as to proper assignment, the IIS Commander in consultation with the Administration Bureau Commander will make the determination.

With the implementation of the revised citizen complaint policy being put in place on July 8, 2003, and the adoption of IIS Standard Operating Procedures 103.20 and 104.12, CPD believes the MOA provisions governing IIS investigations has been accomplished. CPD will continue to monitor those cases in which credibility assessment becomes issue.

- *Complaints Generated in Connection with Uses of Force*

In his second report, the Monitor expressed concerns over the routing of those complaints generated in connection with use of force investigations. Believing these complaints were thoroughly investigated in conjunction with the force incident, CPD previously routed them for review through the chain of command as part of the use of force case file. After the supervisory, command level, and Inspections Section review processes, an appropriate complaint closure recommendation would be made and presented to the Police Chief for approval.

Labeling these complaints as allegations of excessive force, the Monitor has concluded their investigation is guided by the IIS requirement outlined in MOA paragraph 46. Although CPD questions many of these complaints as being “excessive force” in nature, a policy modification was made to better reflect the applicable MOA provisions. While section F.7. of the revised use of force policy, Procedure 12.545, directs investigating supervisors to route complaints taken in conjunction with force investigations to IIS as with other complaints, IIS Standard Operating Procedure 104.02 outlines the protocol for the investigation of these complaints.

D. ADJUDICATION OF COMPLAINTS

Monitor’s Previous Assessment

The Monitor’s Second Report indicates CPD will be in compliance with the MOA provision when policy revisions are made incorporating the MOA closure recommendations to the CCRP process.

Status Update

The MOA complaint closure terms have been applied to the CCRP process in the latest revisions to Procedure 15.100, which became effective on July 8, 2003.

Procedure 15.100 I.4.c.

The bureau commander will make a final determination of the appropriate complaint closure classification according to section 9.07 of the Manual of Rules and Regulations and Disciplinary Process for the Cincinnati Police Department.

E. CCA

Monitor's Previous Assessment

The Monitor reported that the City is in compliance with the provisions of the MOA that require the creation of the CCA, but indicated clarity is needed in the following area:

- The ambiguity regarding the 90 day provision of the completion of CCA investigations and when CCA should actually begin the investigation. Although the MOA and CA direct this period to begin with the filing of the complaint, CCA policies and guidelines suggest the investigative period begins with the actual CCA receipt of the complaint. Citing delays in the exchange of complaint information on the part of CPD, the monitor noted the timelines could be significantly different.
- Clarification is needed to determine CCA's ability to begin an investigation, and gain access to documents from the CPD and the county prosecutor, in cases where a criminal investigation into officer's conduct is also an issue.

Status Update

• CCA Ninety Day Closure Provision

CPD has revised the Citizen Complaint policy, Procedure 15.100, to expedite the forwarding process of complaints to CCA particularly those complaints lodged in connection with use of force investigations. The revised policy became effective July 8, 2003.

• Criminal Investigations

In regard to the initiation of complaints alleging criminal conduct on the part of officers, CCA and the City Law Department are still addressing the matter. The recent resignation of the Executive Director, Mr. Nate Ford, has delayed progress in this area. The Interim Director has made this a priority and will resume work on the issue.

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IIS Standard Operating Procedure #104.02	20

VI. MANAGEMENT AND SUPERVISION

A. RISK MANAGEMENT AND SUPERVISION

Paragraphs 57-66 of the MOA are relevant to risk management and supervision.

Monitor's Previous Assessment

The Monitor's Second Report found CPD to be in partial compliance with the MOA provisions relative to the Risk Management System. The Monitor has noted that the following items are still subject to submission and DOJ review:

- Risk Management System Protocol
- Risk Management System Data Input Plan

The Monitor further noted that CPD is currently using existing databases to the fullest extent possible to identify patterns of conduct by CPD officers or groups of officers.

Status Update

The following is the projected implementation summary for the Employee Tracking System.

July 11, 2003	Pomeroy Inc. installed and set up the servers necessary to run the Employee Tracking System
July 14, 2003	Megg and Associates began to load the servers with the necessary applications to begin loading the CHRISNet product. The test/training server was configured. Two arrays were also configured. The first array contains two drives for the 2003 Server OS. The other array will contain the remaining four drives for the database. SQL 2000 was also installed. The CHRISNet framework and Active Paper were installed along with the initial ETS software. Megg Associates also began configuring the two web servers for the production cluster.
August 12, 2003	Megg Associates will return to Cincinnati to continue with the cluster setup, provide some general training for ITMS staff and to conduct demonstrations. One of the demonstrations will be presented to the command staff and the other to the project team.

4th Quarter 2003 CPD to begin user training on the system using the train the trainer concept.

December 1, 2003 CPD to begin the proof of performance period.

ITMS expects to begin to complete upgrade of the remaining Police Department desktops within the next reporting quarter. This is Phase II of the upgrade process. Phase III will be the upgrade of operating systems and office packages on the remaining desktop hardware not being replaced. After completion of Phase III, each work station within the Department should have the hardware/software requirements needed to access the ETS. Phase II is expected to be completed in early December 2003.

- *Employee Tracking System Protocol*

In regard to the Employee Tracking System protocol, a basic protocol was drafted and submitted last year. CPD is currently working with the vendor and the command staff to develop a detailed protocol for the system. The Department has set a target date of August 30, 2003 to have this protocol completed.

- *Employee Tracking System Data Input Plan*

Megg and Associates have worked to develop a data input plan for the system, which is expected to convert all the data in the current risk databases into the ETS system. The consultants were provided data in March 2003 and will be given the remainder of the data closer to the project roll out date for conversion.

B. AUDIT PROCEDURES

Paragraphs 67-69 of the MOA deal with Audit Procedures.

Monitor's Previous Assessment

The Monitor's Second Report found CPD to be in partial compliance with the MOA. Although Inspections Section has established appropriate procedures for conducting audits, the Monitor indicated further review of the cases involved will have to be carried out by the Monitoring Team. Specifically, the Monitor noted the following:

- With respect to meetings with the Prosecutor's Office, CPD held the meetings as required but the meetings appeared to be limited to officer case preparation issues as opposed to broader officer performance and accountability issues as directed by the MOA.

Status Update

- The next meeting with the Prosecutor's Office has been scheduled for August 18, 2003. Police Relations Section expects to send a representative to the meeting to monitor the discussion and assist in identifying goals and the performance issues being sought by the process. Upon conclusion, CPD will provide a meeting summary to the Monitor.
- The Inspections Section conducted the semi annual audit of the Internal Investigations Section. The report summarizing the findings was prepared and submitted on August 8, 2003.
- The Inspections Section conducted the audit of the CCRP Process for the second quarter of 2003. The audit consisted of a review of a sample of complaints from the five districts, Police Communications Section, Street Corner Unit, Traffic Unit, and Criminal Investigation Section. The audit summary was prepared and submitted on July 10, 2003.

C. VIDEO CAMERAS

MOA Paragraphs 70-72 deal with video camera requirements.

Monitor's Previous Assessment

The Monitor's Second Report found the CPD in partial compliance with the MOA. Although the required policies are in place, not all the cars are camera equipped. The Monitor expressed intentions to:

- Work with the City to determine the status digital camera research.
- Determine whether supervisors are reviewing MVR tapes as part of pursuit, complaint, and force investigations.
- Assess the working order of cars currently equipped with cameras.

Status Update

The Fleet Unit has completed the inventory of the existing MVR systems now in use, and evaluated the future needs of the MVRs. The Fleet Unit sent invitations to various companies requesting information on digital DVD units. Four responses were returned with only one fulfilling the specifications requested by CPD.

The Fleet Unit in conjunction with Inspections Section, Traffic Unit, Information Technology Management Section, and Patrol Bureau have field-tested one digital unit from the vendor that fulfilled CPD specifications. The test was conducted on

a beat car assigned to District One. The results of the field test indicate this system will meet the current and future needs for CPD.

As a result of the MVR inventory, The Fleet Unit has determined that the purchases of 240 complete digital MVT systems will fully outfit all the marked vehicles, allow for future increase of marked vehicles, and to have a system on hand to replace any that may be destroyed as the result of a catastrophic incident.

The technology incorporated in this new system offers an automatically activated wireless microphone that will allow each officer to synchronize his or her microphone to any MVR through a receiver docking station installed in each vehicle. This feature allows up to 20 officers on scene to have no bleed over to one another's MVR system. This feature also allows two officers to synchronize to the same MVR in any vehicle equipped with this new system. An additional 400 microphones are requested to outfit each officer involved in field operations.

Cost Estimates

Digital Eyewitness System	\$5375.00
Digital Eyewitness Docking Station	560.00
Digital Eyewitness Transmitter	250.00
Eight additional DVD (RAM) discs per system	56.00
	<hr/>
Total Cost Per Vehicle	6241.00
Number of Units Required	X 240
	<hr/>
Estimated Project Cost	\$1,497,840.00

On July 18, 2003, the Fleet Unit submitted the finalized request for purchase for the digital MVRs. The Police Chief has authorized this request. CPD will request funding for the project through the 2004 capital budget process.

In regard to the current equipment, Procedure 12.537 ensures that camera equipped vehicles are fielded whenever possible:

D.d. Assign police vehicles with faulty MVR equipment only as a last resort.

D.d.2 Supervisors will note in their rounds why equipment without functioning MVR equipment was used.

Procedure 12.537 also standardizes the review process. The relief Officer in Charge (OIC) is to randomly review tapes twice per week and note these review in the daily rounds. All supervisors are to conduct random reviews and document those reviews in the Mobile Video Recorder logbook.

D. POLICE COMMUNICATIONS TECHNOLOGY

MOA Paragraphs 73 and 74 relate to police communications technology.

Monitor's Previous Assessment

The Monitor's Second Report finds the CPD in compliance with the MOA.

Status Update

Since the Monitor's Second Report was issued, the CPD has taken further steps to upgrade police communications technology. In particular:

- Motorola is still in the process of completing the infrastructure necessary to support a new 800 MHz radio system. The vendor is maintaining the construction timeline with the system projected to come on line during the third quarter of 2004. The current location of the Police Communications Section, however, does not offer enough space to house the new equipment. To accommodate the system CPD has been presented the following options:
 1. Negotiations are ongoing for the purchase of an office/warehouse site to relocate Police Communications Section.
 2. Renovation of the entire third floor of the 310 Ezzard Charles Drive facility, which is estimated to take 18-24 months once the space is vacated.
 3. Purchase of an alternative site located at Montgomery Road and Kennedy Avenue. Research is currently underway to determine the costs to purchase and renovate the facility.
- Replacement of the current 911 Phone System with a state of the art computer based system is currently underway. On March 26, 2003, the Police Department signed a contract with the selected vendor, Cincinnati Bell/Palladium. The equipment has been manufactured and is in the process of being shipped to Cincinnati Bell for installation.
- The Police Department has requested the City allocate funds to upgrade the current CAD system. The City has placed the CAD replacement on the Capital Improvement Program and has allocated \$2,492,200.00 over three years beginning in 2003. Communications Section is currently researching CAD replacement technology. The CAD RFP will be sent out in conjunction with the Police Department's Records Management System RFP later this year.

E. DISCIPLINE AND PROMOTIONAL POLICY

MOA Paragraphs 75-76 are relevant to discipline and promotional policy.

Monitor's Previous Assessment

The Monitor's Second Report found CPD to be in compliance with the MOA.

VII. TRAINING

A. MANAGEMENT OVERSIGHT AND CURRICULUM

MOA Paragraphs 77 – 87 are relevant to management oversight of training and training curriculum.

Monitor's Previous Assessment

The Monitor's Second Report found that CPD is in partial compliance with these MOA provisions. The Monitor further directed CPD to examine the following areas:

- Training needs to be revised to address the changes that have recently been made to the policy, especially with respect to reporting use of force incidents.
- Establishment of a formal method and procedures by which CPD can identify and assess use of force training to ensure the training provided is responsive to the needs of the officer being trained.
- Establishment of a method and process for evaluating all training curriculum and procedures.

Status Update

- *Use of Force Training Revisions*

The Training Section is currently working on modification to the Use of Force Training program. The revisions will incorporate the provisions contained in the use of force policy that became effective on July 29, 2003.

- *Use of Force Training Needs Assessment*

The participants evaluate each training program presented by the Training Section Staff. The evaluations are tabulated and used to refine or develop new training. In addition, the critical reviews of force incidents conducted by the Inspections Section are also used to identify training needs. To ensure the efficient transfer of information from the Inspection Section to the Training Academy, the acting Inspections Section Commander has been appointed as a member of the Training Committee.

- *Training Curriculum Review*

In regard to the review of training curriculum, the Training Section provides several levels of review:

1. Recruit training is approved and audited by the Ohio Peace Officers Training Commission
2. In-Service Training is reviewed and approved by the Training Director and the Police Chief.
3. Police Academy Training Committee, which includes sworn and non-sworn members of the Department as well as citizens.
4. Citizens Police Advisory Commission (CPAC), which is a group of citizens appointed by the City Manager to specifically provide citizen input on training issues. The Training Section Director staffs the group.

B. Handling Citizen Complaints

MOA Paragraph 82 is relevant to citizen complaint training.

Monitor's Previous Assessment

After review of training records the Monitor found:

- Training on the handling of citizen complaints is provided as part of New Supervisor's Training. CCA, however, was not included in the training provided in January 2003, as previously indicated.
- Recruit Training includes a review of citizen complaints presented by IIS staff. The Monitor notes that CCA was not in existence during the last recruit class.

The Monitor concluded that it will be necessary to observe future training an/or interview students who attend the New Supervisor's Training Program to validate a documented plan for training has been fully implemented.

Status Update

Nancy Minson, Chairperson of the CCA Board and S. Gregory Baker, Compliance Coordinator, presented an overview of the CCA to the January 2003 New Supervisor's Training.

The Training Section will inform the Monitor of the next opportunity to participate in the New Supervisors Training Program.

C. Leadership/Command Accountability

MOA paragraph 83 is relevant to leadership/command accountability training.

Monitor's Previous Assessment

CPD is complying with the requirement to provide leadership and supervisor training for new supervisors. The Monitor emphasized that there is also a requirement to provide ongoing, annual in-service training in this area.

Status Update

Annual In-Service training curriculum is available for Monitor review.

D. Canine Training

MOA paragraph 84 is relevant to canine training

Monitor's Previous Assessment

The Monitor found CPD to be in partial compliance with the canine training requirements. Although the Monitor indicated CPD has developed a canine training program that meets the general criteria in the MOA for an improved handler controlled alert methodology, he also cited the following areas of need:

- Canine announcements and handler control during running apprehensions and tracks, consistent with CPD's new canine policy.

Status Update

- According to the Canine Unit, these adjustments have been reflected in the current version of the canine training curriculum. CPD anticipates the Monitoring Team will review the canine training program during the next site visit.

E. Scenario Based Training

MOA paragraph 85 is relevant to scenario based training.

Monitor's Previous Assessment

The Monitor indicated significant progress is being made to comply with this provision and added that it will be necessary for the Monitoring Team to conduct on-site observations of future training.

Status Update

Roll Call Training scenarios and related training reports are available for the Monitoring Team review at the Police Academy.

F. Revised Training Based on Review of Civil Lawsuits Pertaining to Officer Misconduct

MOA paragraph 86 is relevant to training based on civil lawsuits

Monitor's Previous Assessment

The Monitor noted CPD has made progress in complying with this provision but also suggested giving the Training Committee a role in reviewing the lawsuits to assist in identifying training and policy issues that warrant attention.

Status Update

On July 10, 2003, CPD held its Second Quarter meeting with the Law Department as directed in the MOA. Mr. Theodore Schoch, Training Section Director, was also in attendance at this meeting. The participants also discussed the implementation of a debriefing session to be held upon the conclusion of each lawsuit or arbitration settlement. Both CPD and the Law Department will continue to monitor litigation to identify issues regarding action such as training. Mr. Schoch will convey the training needs to the Training Section Staff.

During this meeting, plans were also made to finalize the civil liability training offered to supervisors at the Management Training starting on July 17, 2003. The training will be presented by members of the City Law Department who have background in 1983 litigation in addition to extensive experience of working with law enforcement agencies. Using a combination of lecture and class participation through role-play scenarios, the training will instruct supervisors and officers in the following topics:

- Civil vs. Criminal Liability
- Civil Case Procedures
- Origins of Liability
- Supervisory Liability
- Defense Theories
- How to Avoid Liability

Although supervisors will initially receive the training, plans are being developed to offer the training to the remainder of CPD personnel in the fall of 2003.

G. Orientation to the MOA

MOA paragraph 87 is relevant to MOA orientation training

Monitor's Previous Assessment

The Monitor's Second Report acknowledged CPD's compliance with the initial requirement to disseminate and train on the MOA. The Monitor will measure the City's compliance with ongoing training requirements as part of their review of the training associated with newly implemented policies, such as the new Use of Force policy.

Status Update

CPD will work with the Monitoring Team to facilitate evaluation of the training.

C. FTO'S

MOA Paragraphs 88-89 deal with the training of field training officers.

Monitor's Previous Assessment

The Monitor's Second Report acknowledges that progress has been made but concludes CPD is not yet in compliance. The Monitor cited the following areas of concern:

- The criteria and method for selecting FTOs are not yet developed.
- The revised version of the FTO policy, Procedure 13.100, has not yet been implemented.
- Inadequate staffing level for FTO oversight and coordination.

The Monitor also indicated the Monitoring Team will continue assessment by reviewing FTO protocols and practices at the district level.

Status Update

The Training Committee evaluated the FTO Program and made improvement recommendations that were incorporated in revised Procedure 13.100, Field Training Officer Program. The revised procedure has been implemented and contains the provisions required in MOA paragraphs 88 and 89. (The requirements in paragraph 88 are found in Sections G., H., and I of the revised procedure and the requirements in paragraph 89 are located in Section H.3.b) In addition, the performance of an individual FTO will be reviewed at least bi-annually, with re-certification dependant on satisfactory prior performance and feedback from the Training Academy.

CPD has further revised FTO Procedure 13.100 to include a review of the individual's complaint history and disciplinary history into the FTO selection criteria. Finally, the modified the procedure now requires the Training Director to review and reappoint FTOs.

On July 15, 2003, the FTO Review Board met for the semi-annual review of training officers. The following panel members participated in the process:

- Mr. Theodore Schoch, Training Section Director
- Dr. James Daum, Police Psychologist
- Captain Michael Cureton, District Two Commander
- Sergeant Anthony Shearer, FTO Coordinator

- Police Officer Steve Fromhold, Field Training Officer

The panel discussed the concerns outlined in the Monitor's Second Status Report, de-certification policy, overall program improvement and the curriculum for the upcoming FTO In-Service Training. After review the panel recommended the deactivation of ten current Field Training Officers pursuant to the criteria established in the FTO policy.

This issue was pointed out to CPD in the last status report issued by the Monitor, the current FTO program offers plenty of supervisory oversight and coordination. Although the Training Section does not have a number of centralized staff dedicated to the program, CPD believes the administration of the program can be best achieved at the district level with the assistance and support of the FTO Coordinator and the Training Section command. The individual districts require supervision, participation, and documentation from:

1. Field Training Officer
2. Field Training Sergeants
3. Shift Commanders
4. District Commanders

Meetings are held on a frequent basis with the Training Section Staff to discuss progress or needs of the probationary officer and/or the FTOs.

D. FIREARMS TRAINING

MOA Paragraphs 90-91 are relevant to firearms training.

Monitor's Previous Assessment

During this quarter, the Monitoring Team visited the CPD range facilities, visited the CPD range, and met with range and training staff to discuss and assess training, programs, tactics, and policies. As a result, the Monitor concluded that CPD is in compliance with the MOA provisions. The Monitor indicated intention to review the following training materials:

- Firearms Qualification Checklists
- CPD disposition of officers failing to satisfactorily complete re-certification

Status Update

The Training Section will provide for a review of the documentation associated with the re-certification process and the suspension of police powers of officers failing to qualify. Since these are records related to specific individuals, we will have them available to review by the Monitoring Team.

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